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6 UNITED STATES DISTRICT COURT  
7 DISTRICT OF NEVADA

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9  
10 UNITED STATES OF AMERICA, }

11 Plaintiff, }

12 vs. }

13 SHAWN RICE, }

14 Defendants. }

2:10-CR-520-JCM-(RJJ)

2:09-CR-078-JCM-(RJJ)

GOVERNMENT'S PROPOSED  
JURY INSTRUCTIONS

15  
16 PROPOSED JURY INSTRUCTIONS

17 The Government respectfully requests that the Court include in its charge to the  
18 jury the following instructions from the Ninth and Eleventh Circuit Manual of Model  
19 Jury Instructions - Criminal, 2010 Edition, and other special instructions requested by  
20 the Government. The source of each such instruction is reflected on the same.

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- 1 1. Money Laundering Conspiracy- Statute (Count 1)
- 2 2. Money Laundering Conspiracy- Elements (Count 1) (74.5)
- 3 3. Money Laundering - Statute (Counts 19-31)
- 4 4. Money Laundering - Elements (Counts 19-31) (74.4)
- 5 5. Conspiracy - Knowing of an Association with Other Conspirators (8.23)
- 6 6. Failure to Appear (8.194)
- 7 7. Government's Use of Undercover Agents and Informants (4.10)
- 8 8. Money Laundering Forfeiture

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2 UNITED STATES DISTRICT COURT

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4 DISTRICT OF NEVADA

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8 UNITED STATES OF AMERICA, ) 2:10-CR-520-JCM-(RJJ)

9 Plaintiff, ) 2:09-CR-078-JCM-(RJJ)

10 vs. )

11 SHAWN RICE, )

12 Defendant. )

GOVERNMENT'S PROPOSED  
JURY INSTRUCTIONS

13  
14  
15 Count 1

16 Conspiracy To Commit Money Laundering

17 Title 18, United States Code, Section 1956(h) provides, in part, as follows:

18 Any person who conspires to commit any offense defined in this section . . .

19 shall be guilty of an offense against the United States.

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25 Title 18, United States Code, Section 1956(h)

26 GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. \_\_\_\_

Count 1

Conspiracy To Commit Money Laundering - Elements

It is a Federal crime to conspire to engage in money laundering or transactions involving the proceeds of specified unlawful activity that violates Title 18, United States Code, Section 1956.

A "conspiracy" is an agreement by two or more persons to commit an unlawful act. In other words, it is a kind of partnership for criminal purposes. Every member of the conspiracy becomes the agent or partner of every other member.

The Government does not have to prove that all the people named in the indictment were members of the plan, or that those who were members made any kind of formal agreement. The heart of a conspiracy is the making of the unlawful plan itself, so the Government does not have to prove that the conspirators succeeded in carrying out the plan.

The Defendant can be found guilty of this crime only if all the following facts are proved beyond a reasonable doubt:

two or more people agreed to try to accomplish a common and unlawful plan to violate 18 U.S.C. Section 1956; and

the Defendant knew about the plan's unlawful purpose and willfully joined in it.

A person may be a conspirator even without knowing all the details of the unlawful plan or the names and identities of all the other alleged conspirators.

If the Defendant played only a minor part in the plan but had a general understanding of the unlawful purpose of the plan - and willfully joined in the plan on at least one occasion - that's sufficient for you to find the Defendant guilty.

1 But simply being present at the scene of an event or merely associating with  
2 certain people and discussing common goals and interests doesn't establish proof of a  
3 conspiracy. Also a person who doesn't know about a conspiracy but happens to act in  
4 a way that advances some purpose of one doesn't automatically become a conspirator.  
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25 11TH CIR. CRIM. JURY INSTR. 74.5 (2010)

26 GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. \_\_\_\_

Counts 19-31

Money Laundering

Title 18, United States Code, Section 1956, provides in pertinent part:

(3) Whoever, with the intent--

(A) to promote the carrying on of specified unlawful activity;

(B) to conceal or disguise the nature, location, source, ownership, or control of property believed to be the proceeds of specified unlawful activity; . . .

conducts or attempts to conduct a financial transaction involving property represented by a law enforcement officer to be the proceeds of specified unlawful activity, or property used to conduct or facilitate specified unlawful activity, shall be guilty of a crime against the United States. For purposes of this paragraph, . . . the term "represented" means any representation made by a law enforcement officer or by another person at the direction of, or with the approval of, a federal official authorized to investigate or prosecute violations of this section.

(c) As used in this section--

(3) the term "transaction" includes a . . . transfer, delivery, or other disposition . . . ;

(4) the term "financial transaction" means (A) a transaction . . . (ii) involving one or more monetary instruments, which in any way or degree affects interstate or foreign commerce

(5) the term "monetary instrument" means (ii) Coin or currency of the United States . . . personal checks, bank checks . . . .

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. \_\_\_\_

Counts 19-31

Money Laundering Sting  
18 U.S.C. § 1956(a)(3)(A) or (a)(3)(B) or (a)(3)(C)

It is a Federal crime to knowingly engage in certain kinds of financial transactions commonly known as money laundering.

The Defendant can be found guilty of this offense only if all the following facts are proved beyond a reasonable doubt:

1. the Defendant knowingly conducted a financial transaction;
2. the transaction involved property that a law-enforcement officer represented as coming from a specified unlawful activity and was used to carry out or make it easier to carry out specified unlawful activity; and
3. the Defendant engaged in the transaction with the intent to promote the carrying on of specified unlawful activity.

or

3. the Defendant engaged in the transaction with the intent to conceal or disguise the nature, location, source, ownership, or control of property believed to be the proceeds of specified unlawful activity.

The Government alleges that the property involved in the financial transaction was represented as coming from the proceeds of bank fraud. For purposes of this case, bank fraud is a kind of specified unlawful activity.

The government also alleges that the Defendant was involved in the transaction with the intent to promote the carrying on of and to conceal or disguise the nature, location, source, ownership, or control of property believed to be the proceeds of bank fraud, which I remind you is a kind of specified unlawful activity.

A "representation" is any communication made by a law-enforcement officer or by another person directed by, or with the approval of, a federal official authorized to investigate or prosecute violations of this law.

1 To "conduct" a transaction means to start or finish a transaction or to participate  
2 in a transaction at any point.

3 A "transaction" means a purchase, sale, loan, promise, gift, transfer, delivery, or  
4 other disposition of money or property. A transaction with a financial institution also  
5 includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan,  
6 extension of credit, use of a safe deposit box, or purchase or sale of any stock, bond,  
7 certificate of deposit, or other monetary instrument.

8 A "financial transaction" means -

9 a transaction that in any way or to any degree affects interstate or foreign  
10 commerce by sending or moving money by wire or other means.

11 or

12 a transaction that in any way or to any degree affects interstate or foreign  
13 commerce by involving one or more "monetary instruments." the phrase "monetary  
14 instruments" includes coins or currency of any country, travelers or personal checks,  
15 bank checks or money orders, or investment securities or negotiable instruments in a  
16 form that allows ownership to transfer on delivery.

17 The term "with the intent to promote the carrying on of specified unlawful  
18 activity" means that the defendant must have conducted the financial transaction for  
19 the purpose of making easier or helping to bring about the specified unlawful activity.  
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25 11TH CIR. CRIM. JURY INSTR. 74.4 (2010)

26 GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. \_\_\_\_



1 CONSPIRACY

2 KNOWING OF AND ASSOCIATION WITH OTHER CONSPIRATORS

3 A conspiracy may continue for a long period of time and may include the  
4 performance of many transactions. It is not necessary that all members of the  
5 conspiracy join it at the same time, and one may become a member of a conspiracy  
6 without full knowledge of all the details of the unlawful scheme or the names,  
7 identities, or locations of all of the other members.

8 Even though a defendant did not directly conspire with the other defendant in  
9 the overall scheme, the defendant has, in effect, agreed to participate in the conspiracy  
10 if the government proves each of the following beyond a reasonable doubt that:

11 (1) the defendant directly conspired with one or more conspirators to carry out  
12 at least one of the objects of the conspiracy;

13 (2) the defendant knew or had reason to know that other conspirators were  
14 involved with those with whom the defendant directly conspired; and

15 (3) the defendant had reason to believe that whatever benefits the defendant  
16 might get from the conspiracy were probably dependent upon the success of the  
17 entire venture.

18 It is not a defense that a person's participation in a conspiracy was minor or for  
19 a short period of time.

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25 9TH CIR. CRIM. JURY INSTR. 8.23 (2010)

26 GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. \_\_\_\_

FAILURE TO APPEAR

The defendant is charged in Counts 1-4 the indictment with failure to appear in violation of Section 3146(a)(1) Title 18 of the United States Code. In order for the defendant to be found guilty of that charge, the government must prove each of the following elements beyond a reasonable doubt:

First, the defendant was released from custody with the requirement to appear in court or before a judicial officer on March 8 & 9, 2010, and June 16 & 21, 2012;

Second the defendant knew of this required appearance; and

Third, the defendant intentionally failed to appear as required.

9TH CIR. CRIM. JURY INSTR. 8.194 (2010)

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. \_\_\_\_

1 GOVERNMENT'S USE OF UNDERCOVER AGENTS AND INFORMANTS

2 You have heard testimony from an undercover agent who was involved in the  
3 government's investigation in this case. Law enforcement officials may engage in  
4 stealth and deception, such as the use of informants and undercover agents, in order  
5 to investigate criminal activities. Undercover agents and informants may use false  
6 names and appearances and assume the roles of members in criminal organizations.

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25 9TH CIR. CRIM. JURY INSTR. 4.10 (2010)

26 GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. \_\_\_\_

MONEY LAUNDERING FORFEITURE

Section 982 of Title 18 of the United States Code provides, in part, that whoever violates the anti-money-laundering provisions of Section 1956(h) of Title 18 of the United States Code shall forfeit to the United States any property, real or personal, involved in a transaction or attempted transaction in violation of Title 18, United States Code, Section 1956(h), or any property traceable to such property.

The Indictment alleges that the Defendant's properties identified in these instructions and in the special verdict form are forfeitable because they are real or personal property that was involved in a money laundering violation for which the Defendant was found guilty, or property which is traceable to such property.

These properties are set out in a Special Verdict Form for Money Laundering Forfeiture which follows at the end of these instructions. As to each such property you must determine whether it was thus connected to a money laundering violation for which the Defendant was convicted.

18 U.S.C. § 982

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. \_\_\_\_

1                                    ADDITIONAL INSTRUCTIONS DURING TRIAL

2            Due to the potential issues that may arise before a trial, leave is respectfully  
3 requested to include such other additional instructions as the Government deems  
4 appropriate during the course of the trial.

5                            DATED this 18th day of July, 2012.

6    Respectfully submitted,

7    DANIEL G. BOGDEN  
8    United States Attorney

9    /s/     J. Gregory Damm

10     J. GREGORY DAMM  
11     Assistant United States Attorney  
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Certificate of Service

I, J. Gregory Damm, hereby certify that I am an employee of the United States Department of Justice, and that on this day I served a copy of the following: GOVERNMENT'S PROPOSED JURY INSTRUCTIONS, upon counsel for all defendants appearing in this matter via the CM/ECF system, by electronically filing said GOVERNMENT'S PROPOSED JURY INSTRUCTIONS and mailing a copy postage prepaid to Shawn Talbot Rice, P.O. Box 1092, Seligman, Arizona 86337-1092 and to Shawn Talbot Rice, Inmate # 43739-048, Nevada Southern Detention Center, 2190 E. Mesquite Ave., Pahrump, NV 89060-3427.

Dated: July 18, 2012

/s/ Pamela J. Mrenak  
Legal Assistant to J. Gregory Damm  
Assistant United States Attorney  
District of Nevada